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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,539	05/26/2005	Jurgen Schmidt	PD020111	5066

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EXAMINER	
MCCORD, PAUL C	

ART UNIT	PAPER NUMBER
2614	

MAIL DATE	DELIVERY MODE
02/13/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/536,539	SCHMIDT ET AL.	
	Examiner	Art Unit	
	PAUL MCCORD	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 December 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 2* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 2* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1 and 2 are pending in this application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claim 1 rejected under 35 U.S.C. 103(a) as being unpatentable over Jin (US Patent 6867820) and further in view of Van Steenbrugge (WO 98/5598, cited by applicant, hereinafter Van.)

6. Regarding claim 1 (Currently Amended)

Jin teaches: A method for processing various uncombined audio bitstreams decoded within a digital television or similar apparatus for presentation on detected attached output devices (Jin: Column 1, lines 26-64; Figure 1; Table 1.) Constituent elements within audio menus are displayed based on detected output devices/channels and detected content including the number of channels of incoming audio, these elements allow a user to select differing output configurations. (Jin: Col 5, l. 40-65, Col 6, l. 1-20; Fig 4, 5; Table 1, 2.) The decoded audio signals are variously combined into appropriate listening modes in concert with user preferences as indicated by menu item selections and broadcaster or content provider attached audio information data indicating at least encoding and channel information (Jin: Col 4, l. 15-37; Tables 1, 2.) Available menu items confirm an output configuration to decoded signals functional to demand, configure or resolve conflicts of audio input type and available output configurations. (Jin: Col 6, l. 25-31, Col 7, l. 45-65; Tables 1, 2, 7) The system displays only usable audio menus based on configuration type of decoded audio signal or configuration of output channels, channels to be output depend on switching determined by user response to audio menus (Jin: Col 5, l. 65-67; Col 6, l. 1-5.) In the case of non matching channels or configurations possible outputs and output configurations are based at least on specific information

provided by a content provider or broadcaster, such as in the case of Jin Table 6 or in the event of AC-3 encoding illustrated in Figure 5. Jin does not explicitly teach mixing/switching the variously input audio signals, however the operation of a mixer is implicitly described: undertaking to operate volume control of each channel in compliance with Table 5 of Jin adjusting the volume of two or more inputs to produce a modulated output signal or signals includes the operations of mixing.

Jin does not explicitly attach an updated channel configuration item to signals mixed or switched for output.

In a related field of endeavor Van teaches: A method to control audio channels decoded from a record carrier wherein audio channels are directed to appropriate outputs by switching and an output identification signal is attached to the signal for further configuration of appropriate output devices. (Van: at least Claim 1) It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the Van and Jin systems and methods. One would have been motivated to do so for the purpose of embracing a wider range of output devices than explicitly claimed by Jin.

7. Claim 2 rejected under 35 U.S.C. 103(a) as being unpatentable over Jin in view of Van as applied to claim 1 above, further in view of Saunders et al. (US PGPub 2002/0040295 hereinafter Saunders.)

8. Regarding claim 2 (Original)

Jin in view of Van teaches:

A method according to claim 1

Jin in view of Van does not explicitly teach:

An apparatus **wherein said bitstream has MPEG-4 format.**

In a related field of endeavor Saunders teaches:

A method and apparatus for adding secondary content into a bitstream such as the inclusion of voice wherein the bitstream comprises MPEG-4 encoding. It would have been obvious to one of ordinary skill in the art at the time of the invention to include an MPEG-4 bitstream as taught by Saunders within the Jin in view of Van method and device. One would have been motivated to do so for the purpose of adding voice and other audio information to a distributed, collaborative audio session utilizing the Jin in view of Van output method in the distributed systems.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. (Please see form PTO 892)

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL MCCORD whose telephone number is (571)270-3701. The examiner can normally be reached on M-F 7:30AM - 5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CURTIS KUNTZ can be reached on (571)272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. M./
Examiner, Art Unit 2614

/CURTIS KUNTZ/

Supervisory Patent Examiner, Art Unit 2614